

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

CHRISTOPHER BECK,

Plaintiff,

v.

**UNITED STATES FOOD & DRUG
ADMINISTRATION, *et al.*,**

Defendants.

Case No. 3:18-cv-1644-JR

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Jolie A. Russo issued Findings and Recommendation in this case on April 9, 2019. ECF 48. Magistrate Judge Russo recommended that Defendant Quest Diagnostics' motion to dismiss be granted and that because Defendant Laboratory Corporation of America joined in the motion, the claims against both Defendants be dismissed with prejudice. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations,

“the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States. v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate judge’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Russo’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Magistrate Judge Russo’s Findings and Recommendation, ECF 48. Defendant Quest Diagnostics’ Motion to Dismiss (ECF 28), which was joined by Defendant Laboratory Corporation of America, is GRANTED. Plaintiff’s claims against these Defendants are dismissed with prejudice.

IT IS SO ORDERED.

DATED this 15th day of May, 2019.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge